

REMARKS

Applicant has carefully studied the outstanding Office Action. The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Application as examined included claims 1-13 and 16-29. Claims 14-15 and 30-33 have previously been cancelled. In the present response, claims 1 and 17 have been amended. Claims 13, 16 and 29 have been cancelled without prejudice. Claims 2-12 and 18-28 are unchanged.

Claim 1 is objected to because of informalities. Claim 1 has been amended to overcome the objection.

Claims 1-13 and 16-29 stand rejected on the grounds of nonstatutory obvious-type double patenting over claims 1-11 of U.S. Patent No. 6,740,346 in view of Esty (U.S. RE 28,892). Applicants submit herewith a terminal disclaimer in respect of U.S. 6,740,346 to overcome the double patenting rejection.

Claims 1-13 and 16-29 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 17-26 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 1 and 17 have been amended to overcome the rejections.

Claims 1-13 and 16-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Esty (U.S. RE 28,892) in view of Wu et al. (U.S. 5,575,418) as evidenced by Bennett.

Esty describes a package for preserving perishable products including a container enclosed in a carton. Wu et al describes a gas-permeable corrugated paperboard package system.

Applicant expresses appreciation to Examiner Steven Leff and SPE Callie Shosho for the courtesy of an interview, which was granted to Applicant's representative, Sanford T. Colb (Reg. No. 26,856). The interview was held in the USPTO on June 17, 2008. The substance of the interview is set forth in the Interview

Summary.

At the interview, the claims were discussed vis-à-vis the prior art of record. The Interview Summary states, in relevant part, "Proposed amendments: 1) 'locatable' of claim 1 to 'located' 2) sealing element separate from bag and box and 3) structural limitations of claim 29 into all independent claims."

As discussed at the interview, claims 1 and 17 have been amended to remove the word locatable and to recite that the sealing element is separate from the bag and the box. Applicant has further amended claims 1 and 17 to recite features of the embodiment shown in Figs. 4A and 4B which already appear in claim 16, including a cap operative to seal said at least one bag aperture and said at least one sealable localized atmosphere communications aperture, instead of the embodiment of Fig. 2C recited in claim 29 that was discussed at the interview.

Applicant respectfully submits that neither Esty or Wu, either alone or in combination, show or suggest a method for packing agricultural produce as recited in amended claim 1, including, inter alia, "a sealing element, separate from said box and said bag, located in said at least one sealable localized atmosphere communication aperture, operative to seal said bag to said box" and "said sealing comprising attaching a cap over said at least one bag aperture and said at least one sealable localized atmosphere communications aperture from the outside of said box" and that claim 1 is therefore patentable.

Applicant respectfully submits that neither Esty or Wu, either alone or in combination, show or suggest a system for packing agricultural produce as recited in amended claim 17, including, inter alia, "a sealing element, separate from said box and said bag, located in said at least one sealable localized atmosphere communication aperture, operative to seal said bag to said box" and "a cap operative to seal said at least one bag aperture and said at least one sealable localized atmosphere communication aperture" and that claim 17 is therefore patentable.

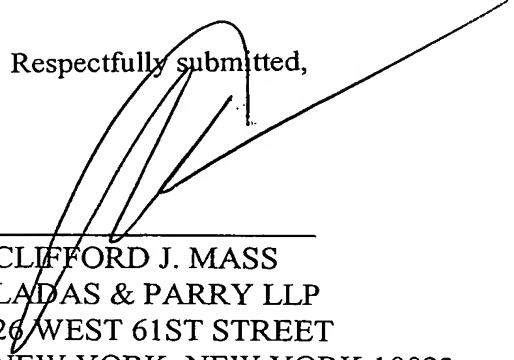
Claims 2-12 each depend directly or ultimately from claim 1 and recite additional patentable matter and are therefore deemed to be allowable. Claims 18-28 each depend directly or ultimately from claim 17 and recite additional patentable matter and are therefore deemed to be allowable.

In view of the foregoing remarks and amendments, all of the claims are



deemed to be allowable. Favorable reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,



CLIFFORD J. MASS
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NEW YORK 10023
REG. NO.30,086(212)708-1890